

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

Michelle ALFRED,

Plaintiff,

v.

ATLANTIC CITY POLICE
DEPARTMENT SWAT, et al.,

Defendants.

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Civil No. 14-7536 (RBK/JS)

OPINION

KUGLER, United States District Judge:

Plaintiff Michelle Alfred, *pro se*, brings this action *in forma pauperis* pursuant to 42 U.S.C. § 1983, alleging violations of her constitutional rights. Because Plaintiff's action is proceeding *in forma pauperis*, this Court "shall dismiss the case at any time if the court determines that . . . the action . . . seeks monetary relief against a defendant who is immune from such relief." *See* 28 U.S.C. § 1915(e)(2)(B)(iii). Plaintiff's Complaint seeks monetary relief and named the State of New Jersey as a defendant.

The State of New Jersey is immune from suit in federal court under the Eleventh Amendment to the U.S. Constitution. The Eleventh Amendment provides that, "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by Citizens or Subjects of any Foreign State." As a general proposition, a suit by private parties seeking to impose a liability which must be paid from public funds in a state treasury is barred

from federal court by the Eleventh Amendment, unless Eleventh Amendment immunity is waived by the state itself or by federal statute. *See, e.g., Edelman v. Jordan*, 415 U.S. 651, 663 (1974). Section 1983 does not override a state's Eleventh Amendment immunity. *Quern v. Jordan*, 440 U.S. 332 (1979). *See also Hurst v. City of Rehoboth Beach*, 288 F. App'x 20, 24–25 (3d Cir.2008). Thus, the State of New Jersey is immune from suit here.

Pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii), Plaintiff's claims against the State of New Jersey will be dismissed with prejudice. Plaintiff could not cure the deficiencies in the claims against the State of New Jersey by any further amendment of the Complaint.

Dated: 10/01/2015

s/ Robert B. Kugler

ROBERT B. KUGLER

United States District Judge